

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 04-0412P**

**Income Tax**

**For the Calendar Year 2003**

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**ISSUE**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2;

The taxpayer protests the underpayment penalty for estimated tax.

**STATEMENT OF FACTS**

The underpayment penalty for estimated tax was assessed for the calendar year 2003.

The taxpayer is an individual residing in Indiana.

I. **Tax Administration** – Penalty

**DISCUSSION**

The taxpayer requests the underpayment penalty be waived as the error was the result of the taxpayer being unaware of tax regulations. Also, the taxpayer cites a good compliance record as a factor in waiving the penalty.

With regard to the compliance record, the Department notes the taxpayer had a prior error in 1999. The Department does not consider the taxpayer's compliance record to be a factor in the waiver of the penalty.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the

Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was ignorant of the tax duties. Ignorance is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

**FINDING**

The taxpayer’s penalty protest is denied.